ASAM. CONST.
Aede 1-1

Martes, Oct. 9, 1934.
5:00 p. m.

APERTURE DE LA SESION

Se abre la ssion a las 5:00 p. m., ocupando el estrado el Presidente, Hon. Claro M. Recto.

EL PRESIDENTE. Se abre la sesion

DISPENSACION DE LA LECTURA DE LA LISTA Y DEL ACTA

SR. GRAFILO. Sr. Presidente.

EL PRESIDENTE. Sr. Delegado.

SR. GRAFILO. Pido que se dispense la lectura de la lista y del Acta.

EL PRESIDENTE. Tiene la Asamblea alguna objecion a la mocion (Silencio. La Mesa no oye ninguna. Queda Aprobada.

DESPACHO DE LOS ASUNTOS QUE ESTAN SOBRE LA MESA DEL SR. PRESIDENTE.

EL PRESIDENTE. Leanse los documentos recibidos.

EL SECRETARIO: (Insertense y veanse Acta No. 60).

INSERCION DEL DISCURSO ARANETA

SR. ARANETA. Sr. Presidente.

SR. PRESIDENTE. Sr. Delegado por Manila.

SR. ARANETA. Haciendo uso de l privilegio de la primera media hora, yo querria insertar en la record mi discurso.

(Entregando al Sr. Secretario su discurso.)

EL PRESIDENTE. Asi se ordena.

ASAM. CONST.
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(Entregando al Sr. Secretario su discurso.)

EL PRESIDENTE. Asi se ordena.

DISCURSO DEL DELEGADO ARANETA

Al dirigiros la palabra en esta ocasión, en que, por vez primera, tengo el privilegio de exponer ante vosotros uno de los principios de mi ideario relativo a la Constitución, deseo dedicar mis primeros pensamientos al humilde y olvidada Filipino del campo, del taller y de la tienda, pues, de su bienestar y estabilidad economica dependerán el éxito y al grandeza de la nueva nación que nos toca crear y desarrollar por especial privilegio.

En su discurso inaugural, nuestro distinguido Presidente declaro, que podrían tener cabida muy jistificada en nuestro estatuto undamental, "aquellos principios gásicos, aquellos ordenaciones fundamental que, sin rozar las las clausulas mandatorias del estatuto congresional de independencia y sin ifringir las n normas aceptadas del derecho de gentes, expresen de modo fiel y acabado el genio peculiar de nuestra raza, garanticen plenamente alpueblo de estas Islas, en la hora presente y en los tiempos que han de venir, la integridad del patrimonio nacional, prenda inalienable e impignorable de su independencia."

En el marco obligado de un discurso inaugural, nuestro Presidente no podia explicar su ideario nacionlistita constitucional y esta tarde, contando con vuestra benevolencia, procurara recoger el pensamiento que tan feliz y brillantemente enunciara, exponiendo y analizando uno de los males sociales que afligen a la Patria, en la esperanza de poder contribuir con mis humildes estudios al hallazgo del remedio, que espero sea una conquista de positivos resultados para nuestra nacionalés, en general, y para el pequeño comerciante filipino, en particular, que aun andafalto de organizacion debida en la explotacion de su negocio.

El patriomonio nacional no se limita a los recursos naturales del pais, a la riqueza que encierran nuestro suelo, subsuelo bosques, rios y mares. La oportunidad de ganarmos una vida holgada en nuestra patria, que no debe limitarse a una minoria de afortunados, es, para mi, el patrimonio sagrado de todo filipino, y esta Asamblea Constituyente haria traicion a uno de sus fundamenta-

les deberes, si olvidara el supremo deber wue tiene de moldear ciertas instituciones basicas de la vida nacional, en forma tal que nuestros nacionales pudiesen disfrutar del privilegio y la prerrogativa ad usurfructuar los beneficios anejos a aquellas ocupaciones que suministran las necesidades coutidianas y mas imperativas de la nacion, y que en todos los apises ha sido y es el patrimonio de los nacionales.

Me doy cabal y perfecta cuenta, Srest. Delegados, de la grave responsabilidad que representan las ideas que cualquiera de nosotros sustente y exponga en el seno de esta Camara y temeroso de que pudiera ser mal interpretado, deseo aclarar y hacer frnaca protesta de que esta muy lejos de mi el propositio de enarbolar bandera de xenofobia. Considero que el concurso del elemento no nacional en ciertas actividades industriales, financieras y mercantiles fomenta el desarrollo de nuestro bienestar patrio. No me olvido del valioso concurso cultural, mercantil e industrial prestado por extranjeros de diferentes nacionalidades y que por varias centurias ha contribuido al enaltecimiento y engrandecimiento de nuestra patria. Comprendo que en este historico momento en que empezamos a afianzar una personalidad mas nuestra y autoctona en la vida de las naciones, no es el propicio para anunciar un ideario que pudiera concular los intereses de los nacionales de otros paises. Pero, al mismo tiempo, no olvidemos que ciertos males sociales que afligan y desgarran a la Nacion, son de tan honda reigambre y han pasado ya a la categoria de cronicos, que solo podran extirparse mediante un estatuto emanado dela voluntad suprema y liberrima del pueblo.

El comercio al por nemor, llamdao a satisfacer las necesidades de nuestors ciudadanos, comercio que juega papel importante en nuestra subsistencia diaria, y en la satisfaccion de gran parte de los menesteres que la vida prorogativa de hoy nos ha impuesto, tiene un caracter altamente nacional, y so explotacion en nuestro pais, debeira estar en manos de nuestros conciudadanos, no ya porque asi les abririamos las puertas de una ocupacion que

actualmente, triste es decirlo, constituye un monopolio ejercido por los huéspedes que albergamos en el nativo solar, sino también porque nuestra endependencia politica no sería real y efectiva, entonada y honrasa, si no dejasemos de depender para el suministro de nuestras primordiales necesidafes, del comercio concurso extranjeros.

El General Alejandrino dijo con sobrada razón, que la nacionalización de ciertas industrias básicas es un requisito indispensable para la defensa nacional. Pero el General Alejandrino se ha fijado, solamente, en uno de los ángulos del problema. La nacionalización de las industrias básicas podría asegurar al país los instrumentos de guerra o de defensa que pudiera necesitar, pero para articularlos, se necesitan hombres y soldados, y detrás de estos, esta la población civil, cuya moral que debe mantenerse muy alta para el exito de nuestras armas, dependerá, en gran parte, del trato y patriotismo que reciba del comerciante que supla sus necesidades.

Pero, aún en tiempo de paz, los comerciantes al por menor ejercen auna función vitalísma en la vida económica de la nación. Ellos son para el país lo que las arterias son para el debbo funciona iento del organismo humano. Su influencia, mejor dicho, su necesidad, se deja sentir hasta en las más pequeñas células y actividades de la patria.

En relación con este particular, plíceme acotar las siguientes muy atinadas observaciones que un alto funcionario de la Oficina de Comercio e Inudstria me ha facilitado.

"Se ha calculado de momo conservador que de veinte a veinticino por ciento del comercio al detal del páis esta en manos de filipinos y el resto en manos de extranjeros, principalmente, chinos. Esta situatión no tiene paralelo en otros paises y el problema es peculiarmente nuestro. Ya en tiempo de paz o de guerra habría menos complicaciones para una Fili-

pinas independeinte, si el comercio en el país estuviera controlado por comerciantes e industriales filipinos. Aún más progresaríamos más rápidamente hacia al detal del país. Los actuales comerciantes, generalmente, se limitan a operar en productos extranjeros, de aquí que no constituyan iniguna ayuda para el presente movimiento de industrializar al país. Algunos de los manufactureros locales han dicho repetidamente que no de los obstaculos principales que encuantran, es la falta de medios para hacer llegar sus productos a la masa de consumidores, debido a que los comerciantes, al detal, no sienten deseos de explotar y vender productos localmente manufacturados.

"Las tiendas de sumi-sari son una actividad mercantil peculiar de Filipinas. Debido a su conveniente situación en la comunidad y su posición estratégica en el sistema distributivo del páis, constituyan un factor vital en la vida económica del pueblo filipino. Ellos son los primeros basamentos en la estructura económica del país, pero, desafortunadamente, una gran porción de las mismas estan en manos extranjeros. Cualquier plan de rehabilitación económica y de conquistar el comercion de aquí para el comerciante filipino debiera tener en consideración este ramo de
nuestra actividad mercanti. totalmente casi en manos extranjeros

Los extranjeros se han parapetado detrás de un solido sistema de capitalización y crédito, compras cooperativas, negocios entrelazados, etc., de tal suerte que los comerciantes filipinos de sari-sari, pobremente organizados o faltese en absoluto, de organización, deficilmente podrañ cambiar por generaciones la presente estructura económica. Un vigoroso y sunado esfuerzo de los comerciantes filipinos, defenido por el poder del gobierno es necesario para que el comerciante filipino pudeda conquistar una posición digna en el comercio del país. Una acción independiente de cualquiera de ellos haría ineficaz la campaña y, únicamente, retrasaría la consecución del fin perseguido.

"Una medida radical, proteccionista, es necesaria para poner al comerciante Filipino en una posicion de competencia ventajosa en el comercio el detal. Una disposición constitucional haria posible con necesaria ayuda oficial."

Este mal social cronico que nos aflige centurais hace, demanda un remedio inmediato y eficaz, que solo podira logarse con la fijación en nuestra constitución del principio sagrado e irrenunciabbe, due que el comercio al por menor debe ser exclusive de los nacionales. Y aqui debo aclarar que se debe conceder a los actuales comercianntes extranjeros tiempo razonable para poder liquidar sus negocios sin que tenagan que sufrir los reveses obligados anejos a una cesación forzosa, para lo cual, sigiero se les dé un plazo de cinco años. Tambien deseo aclarar que entiendo por nacional al Filipino ay al americano.

La tesis que deseo someter a vuestra consideración y que pasaré a domonstar con argumentos fundados en la Historia y en la experiencia contemporaneas, es la siguiente: La integridad de nuestro patrimonio nacional, que al decir de nuestro presidente, es prenda inalienable e imprignorable de nuestra independencia, quedaria violáda y truncada por nuestra cobardia moral si al ofrecer a nuestro pueblo el fruto de la suprema Magistratura con que nos ha investido, no superámos conservar para nuestros naci ales el ejercicio del patrimonio sagrado anejo a la fución de dar de comer y de vestir a nuestro pueblo y que el ejercicio de este derecho no estaria en gna con ninguna de las claúsulas mandatorias del esttuto congresional de independencia, ni con las normas aceptadas del derecho de gentes.

Dentro de nuestra legislación, tenemos consegrados varios precèdentes al estatuir la nacionalización de la navagación interinsular y al estut ir que nuestro s terrenos públicos y nuestros recursos mineros constityyen patrimonio exclusivo de nuestros nacionales. Exise un sentimiento pronunciado por parte de muchos delegados de insistir en la nacionalisación de nuestras

utilidades publicas. El comercio al por menor tiene una relacion mas directa con nuestro pueblo, el cual depende mas esencialmente de él, que de las utilidades públicas y de la navegación marítima interinuslar. Interesa mas fundamentalmente a los nacionales el no tener que depender de los extranjeros en sus compras cotidianas que el que la navagación interinuslar y las utilidades públicas estén exclusivamente en manos nativas. A este efecto, la enciclopedia espasa declara que la compra venta es la mas importante de todas las utilidades públicas.

Si acudimos a la Historia, nos convenceremos que las naciones, desde tiempo inmemorial hasta nuestros dias, han tenido por norma fija la protección de sus nacionales. No necesito acudir al derecho Romano, justamente llamdao la madre del Derecho, bajo el cual el extranjero no tenia personalidad ni protección alguna ante la ley. En la misma Inglaterra, asi como en todos los paises de la Edad Media, la posición del comerciante extranjero era muy precaria. Los extranjeos no podian dedicarse al comercio, sin una licencia real. Durante los siglos once al quince, dos tendencias opuestamente marcadas tuvieron su expresión en la legislación inglesa. Hubo reyes que dictaron leyes encaminadas a permitira los extranjeros el ejercicio del comercio, leyes que en distintas épocas fueron derogados y suplidas por otras, limitando el privilegio a los nacionales.

Desde un pirncipio, londres capitaneó la oposición contra los comerciantes extranjeros. Durante el reinado de Enrigue IV se pemitiona los comerciantes extrnjeros dedicarse unicamente al comercio al por mayor, ciñando totalmente el ejercicio del comercio al menor, a los nacionales. Ley de 1439, durante el teinado de Enrique VI, impone mayores restricciones a los comerciantes extanjeros al extremo de prohibirseles que comercien entre ellos; de requeir que vivan en casa de un nacional, que supervision los contratos celebrados por qeullos, de limitar su estancia en Inglaterra para comerciar a ocho meses solamente

y de no poder exportar or. Tambien se les requeria aplicar el fruto de sus ventas a la compra de productos del pais para su exportación. A mediados del siglo XV, el comerciante italiano de Florencia y Venecia habia podido consolidarse en Inglaterra en el negocio de exportación de lana y un estatuto fue promulgado para la protección del comerciante nacional (# ed. IV C 4). Durante el reinado de Eduardo VI, se libetalizaron las leyes y el trato concedido a los extranjeros, pero mas tarde, durante dá reinado de Ricardo III, se volvieron a poner en vigor muchas de las restricciones de la ley de 1453, en un nuevo esfuerzo de proteger al nacional contra la competencia del comerciante italiano. Esta ley fué nuevamente derogada al ascender al trono Enrique VIII, ye el Diccionario Ingle de Economia Polftica, edicado por Henry Hogge, de donde tomamos estos datos, spunta, que probablemente, la ley fue drogada debido al sobrono de los comerciantes Italianos. Estas restricciones legales continuaron hasta el feinado de Isable y si las mismas no están ya en vigor se debe a que el comerciante ingles ha tenido ya úmplica oportunidad de consolidarse en su país, y una vez remdiado el mal, la ley ntania razón de existir. Y si ustedes me piden precedentes contemporáneos exactmanete aplicables al estatuto fundamental que propongo, les diria que en dinamarca y Noruega solo se permite a los extranjeros comerciar al por mayor, prohibiéndoseles dedicarse al comercio al por menor; se Suecia, el extranjero no puede comerciar sin autorización del Gobernador del Departamento, y en Rusia, se exige la naturalización o la autorización del Jefe del Departamento (L) y si no existen otros precedentes identicos, se debe a que el mal que nosotros sugrimos en nuestro pais, derivado del monopolio por parte de los extranjeros de nuestro comercio al detal, en los tiempos presentes, no tiene parangon en ningun otro pais. En los Estados Unidos, males que evidentamente no tienen la transcendencia ni la importancia del que evidantamnte no tienen la transcedencia ni la importancia del que acabo de apuntar, han sido remedidados mediante limitaciones similares

puntar, han sido remediados mediante limitaciones similares a l los que yo prongongo.

En Nueva York y en Oregon se han dictado leyes prohibiendo a los extranjeros dedicarse a la venta de refescos y bebidas gaseosas, y aunque los tribunales de Nueve Yor sostuvieron el estatuto, el Tribunal supremo de Oregon declaró la medida anticonstitucional .

Tambien los Estados de Massachusette y de Maine han prohibido a los estranjeros a que se dediquen a ser vendedores ambulantas, con la diferencia de que si bienla Corte Suprema de Massachusette sostuvo la ley, la de Maine declara que no existía base para discirminar contra los extranjeros en los que ataña al ejercicio de dicho negocio. (3)

En New Jersey, solo nacionales puedendedicarse a la banca (4) y en la ciudad de Wnsington, seattle se aprobo una ordenanza axigiendo la nacionalidad, como requisito esencial para didécar se al negocio de agencia de empeños (5) En South Dakota, solo nacionales gueden vemier productos farmacéuticos venenosos. (6) En el Estados de Iowa, Oregon, West Virginia, y Texas, únicamente los nacionales puedendediacarse a operar agencias de empleo (7) y el derecho de operar salones de billar está generalmente, reservado para los nacionales. (8) en estututo del Estado de Virginia ha nacionalizado hasta el nageco de compara y enta de hierros y tratos viejos (9) En Nueva Yor y en Wyoming, los nacionales únicamente pueden ejercer el corretaje de blienes inmuebles. (10) Pennsylvania requier que en las corporaciones, asiciaciones y sociedades mercantitles, los gestores san ciudadanos syos. (11) Y una reciente ley de Nueva Hork requiere la nacionalidad para los agentes de los asegurados, bajo la Ley de Compensación del Trabajo (12)

En varios Estados se limta a los nacionales el ejercicio de las siguientes copaciones: Barberos, (13) Cosmetiocologos (14)

conductores de autobuses (15) Detectives privados. (16)

En los estados de Oregon y Washington existenleyes muy estrictas limitando la ocupación de la pesca alas nacionales. La Columbia Inglesa tambien ha nacionalizado la pesca y el Congreso de los Estados Unides, al ligislar con repecto al territorio de Alska, ha dispuesto que los extranjeros podran pescar con anzuelo o con lanza unicumente, prohibiéndoseles la pesca en escala comercial. En California, Nevada, arizona, colorado, Delaware, Nebraska, Texas, y Wasington, ya mediante disposición constitucional o mediante legislación, se limita los nacionesl el dominio sobre bienes inmuebles en algunos casos, y en otros se probibe a leo extranjeros inelegibles a la ciudadania americana tener interes alguno en bienes inmuebles. Similares leyes sobre terrenos existen en Mejico, en varios Estados de Australia, asi, como en North Borneo. En el Japón, el derecho de los extranjeros poseer bienes inmueble es muy limitado. En las Constituciones del Mejoco, Irlanda y Poenia se prohibe a los extranjeros adquirir terrenos, minas y otros recursos naturales.

Y en innumerables Etados y paises se ha limtado el ejercicio de la porfesion de auditores, arquitectos, ingenieros, medicos, dentistas, iptometras, y famaciuticos a los ancionales.(17)

Scha dicho con sobrada razón que el comercio es la más antigua de las ocupaciones y las mas moderna de las profesiones. En Filipinas y en otras muchos paises, las universidades tienen cursos de comercio al igual que cualquier otra profesion academica. De las aulas de nuestras Universidades salen anualmente centenares de graduados y Bahilleres en Comercio que no saben después donde emplearse. Es inútil que nuestras universidades consideren el comercio como una ciencia y un profesión si por otro lado nuestras leyes no la elevan a la categoria de una profesion académica y su ejercicio, al igual que otras profesiones, ~~académica y su ejer~~SE LIMITA a los nacionales. Y asi como se re-

gula el ejercicio de la abogacia, de la medician y otra s profesiones es deber del Estado regular el ejercicio del comercio, p pues, el comerciante puede causar a la nación mayores males que los que podrían ocasionar otros profesionesl. Mr. Duhan, decono de la Harvar Business School, hace en hicapie en la importancia y la influencia del comerciante enla sociedad de esta guisa:

"El fomento, elXRXX fortaledimiento y la multiplicación de los comerciantes consciete dá un responsabilidad ante la comunidad es el problema ~~consciente-de-su-pro~~ central del comercio. Aún mas, es uno de los grandes problemas de la civilización, pues, los comerciantes podrán hacer que cualquier otra clase para rehabilitar las fuerzas socieles y morales de la sociedad y para cerar la base esencial de una mejor filosofia idealistica y practica al mismot tiempo en la comunidad. A menos que un mayor número de nuestros principales caudillos en el comercio quieran ejercer sus poderes y responsabilidades, enun sentido más elegado y definido, para con los otros grupos de la comunidad, a menos que en sigamos tener una importante socialización del comercio,nuestra civilización estará llamada entrar en un periodo de decandencia. Ciertamente, a menos que dicha evolución tenga lugar, los problemas de la comunidad/por las actividades ocasionados comerciales presentanran mayores y más complicadas dáficultades."

La moralidad en el ejercicio del comercio es muy necesaria para el bionestar social y el Diccionari espasa declara que para conservar dicha moralidad es preciso "primero,.. que el comerciante se conforme con obtener la medida, justa de sus utilidades; segundo, que cobre un precio igual, en igualidad de circunstancias; tercero, que observe el aforismo;verdad sabida y buena fé guardada. Uno de los abusos en los tiempos modernos es el de la confabalación para elevar el precio de las cosas, inutilizando toda competencia."

Los precedentes que acabo de citar demuestra ampliamente q e la claúsula constitucional que yo propongo no está en pugna

con ninguna norma o disposición del derecho internacional, Mr. Edwind Borchard, conocido autor de Derecho Constitucional, en su libro titulado "Diplomatic Protectionof Citizen Abroad," declara lo siguiente: "En ausencia de untratado o de una disposición legal, no exite el derecho inherente de ejercer el comercio domestico." (Page 78 cita 1). En mi opinion, dicha disposicion tampoco está en pugna conla ley de Independencia. Las únicas limitaciones contenidas en dicha ley, que tienen alguna relación con esta cuestión, es la disposiciónmandatoria de que durnte el período de la Mancomunidad, los ciudadanos y las corporaciones de los Estados Unidos disfrutarán de los mismos derechos civiles concedidos a los ciudadanos y corporaciones de nuestro país, y auqella otra, al efecto, de que, aún después de reconocida la independencia, de Filipinas, los derechos de propiedad exsitentes de ciudada nos y corporaciones de los Estados Unidos serán reconocidos, reppectados y salvaguardados en la misma extension que los derechos de propiedad de los ciudadanos de las Islaas Filipinas.

El estatuto constitucional que ho propongo despe luego, no infuringe la primera de dichas disposiciones mandatorias, p puesto que, como ya he aclarado, no pretnedo enm modo alguna limitar el derecho de los americanos de comerciar en esta pais.

No estoy preparado a aseguraros que le estatuto fundamental que yo propongo no está en pugna con ninguno de los tratados comerciales entre los Estados Unidos y otras naciones. En dichos tratados, las naciones contratantes han convenido conceder a los nacionales de la otra parte, amplia oportunidad para comericar en sus respectivos territorios, y no puedo deciros si la palabra "territorios" usada en dichos tratados se extiende a las Islas Filipinas. Para salvar esta posible objeción se podrá incluir una salvedad de que la misma no se aplicara a los extranjeros que , porvirtud de algun tratado comercial celebrado por el gobierno de los Estados Unidos, tengan derecho a ejercer el comercio al por menor, dentro del

territorio Filipino, y que el estatuto fundamental es aplicara a dichos extranjeros, despues de unnaño desde que dichos tratdo dejen de ser aplicables a Filipinas.

El espíritu nacionalista que impera en todo el mundo hoy dia, mal o bien para la humanidad, es un hecho: no es una terria. Ese mismo espíritu naci nalista ha dado origen a que se inserte en la ley congressional de Independencia la ~~XXIX~~ clausula, restringiendo durante la Mancomunidad la entrada de nuestros nacionales en territorio americano, y para cuando seamos independientes, prohibiéndoles en absoluto. Esta disposición ha levantado una polverada en Filipinas. No es mi animo devenderla solo diré que nuestros nacionales, segun los americanos, constituyen un mal en los Estados Unidos, y su congreso, para remidarlo, tuvo que valerse de una legislación, aún a costa de herir nuestra susceptibilidad nacional.

Se que esta mal de que nosotros padecemos no requiere ningun estatuto fundamental y que una mera legislación podría remediarlo. A esto contestaré que si consagramos en nuestra constitucion los pirncipios americanos de un "debido proceso legal" y de "igual protección ante la ley" que han recibido una interpretación muy amplia del Tribunal Supremo de America, el estatuto que yo propongo, si emanara únicamente de la Legislatura, podrá ser declarado anticonstitucional por conducar dichos principios constitucionales, bajo cuyo sombra el Tribunal de los Estados Unidos ha sentido la siguiente jurisprudencia:

"La enmienda decimo-cuarta de la Constitucion no se limita a proteber a los ciudadanos. La misma dispone que "Ningun estado privará a una persona de su vida, propiedad ay libertad sin el debedo proceso de ley ni negará a persona alguna dentro de s su jurisdicción la igual portección ante la ley." Esta disposición es de aplicación universal, a todas las personas dentro de la jurisdiccion territorial sin tener en cuenta ninguan dife-

rente la ley es una garantia de protección ante otras leyes igua-
l s. (Yick Wo v. Hopkins , 118 U. S. 369)"

Por tales consideraciones, sostengo que este problema debe estudairse y resulverse por esta Asamblea constityente en el sentido de que si la misma no está inclinada a adoptar el estatuto fundamental que aqui propongo, que la constitucion no contenga, al menos, ninguan disposición que impida, más, tarde, a nuestra legislatura a poder remediar este mal, mediante la decuada legislación que las circunstancias demanden. Entiendo, sin embargo, que estando en nuestras manos el remédio, renunciaríamos a un derecho y violariamos un deber al no hacerlo. Bien quisiera yo que no exista ninguna necesidad y ninguna urgencia de remediar este mal social en forma de un estatuto, ya constitucional o ya legislativo; bien quisiera yo que nuestros propios comerciantes pudiera competir con los extranjeros en el comercio dl detal, sin que fuera necesario extenderles la proteccion de nuestra leyes! pero señores, temo que si adoptamos um filosofia de laisses faire en cuanto a este particular, en vez el mal, lejos de remediarse por la inicialativa particular, continuaria agravandose más y más, hasta el punto de convertirse en un grave malestar social, que en las grandes cirsis nacionales pondra en peligro la estabilidad de nuestras instituciones y de nuestro gobierno.

Si me dejaro llevar por mis preferencias personales y la simpatia que siento por muchos extranjeros, nome tendríais esta tarde defendiendo, publica y abiertamente, ante esta Camara y ante la Nación la cause del débil, desorganizado, anónimo y para mi desconocidotendero Filipino. Contra mi natural pacifico y contemporizados, contra mis inclinaciones y conveniencias, he puesto por encima la única consideración valida y sana que debe movernos en nuestra labor; la salud de la Patria. Y al exponer esta tarde en forma razonaba, franca, abierta la necesidad de

que se nacionalice el comercio al por menor en nuestro pais, cumplo con una conviccion sincera, con un principio que ya tuve ocasión de hacer dpublico al presentarme como candidato a Delegado por el Distrito Sur de Manila, y ante todo y sobre todo, con el nuevo apostolado que la Patria reclama de sus hijos. El apostolado del nacionalismo politico iniciado por Rizal, Bonifacio y Aguinaldo, llevado a feliz éxito por Los Osmeñas y Los Quezons de nuestros dias, una vez cumplido su objeto y pro-
~~pósito, pasará a~~ posito, pasara a segundo termino ante la consideración del pueblo, para dar paso al nuevo apostolado del nacionalismo economico, que complementara el ideario nacionalista que nos hará dignos de ocupar un sitio honroso en el concierto de las naciones. Uno de los postulados de dicho apostolado es el que esta tarde he sometido a la séria y desvi ccion de que la deción que, finalmente, se adopte por esta Cámara será inspirada por un sano y valeroso ejercicio de sus funciones constitucionales.

SALVADOR ARANETA

MANILA I. F.

Agosto 18, 1934

C I T A S

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2. Miller V. Niagara Falls, 207 App. Div. 798; Brageser V. Grey 73 Md. 250.

3. Véase commonwealth V. Hanna, 195 Mss., 262; State V. Montgomery, 94 Ma., 192

4. Leyes de 1925, Ch. 189

5. Asakura V. Seatle 265 U. S. 340.

6. Leyes de 1929, Ch. 124,

7. Iowa, Laws of 1929, Ch. 49; Oregon, Laws of 1929, Ch. 297; West Virginia, Laws of1929, Ch. 12; Texas Laws of 1929 (2nd Ex.), Ch. 96.

8. Georgia, Leys de 1929, p. 286, see Calrk V. deckebach, 274, Us. S. 302, Murphy V. California, 225 Us S. 623.

9, Leys de 1930, Ch. 436.

10. Nueva York. Leyes de 1922, Ch. 673, Enmiendada por ch. 579, leyes de 1924, Wyoming, Leyes de 1929, Ch. 107.

11. Leyes de 1931 No. 389

12. Leyes de 1928, Ch. 518, Ch. 749

13. Wisconsin, Leyes de 1927, Ch. 195, Idaho, Leyes de 1929, Ch. 261; Iowa Leyes de 1929, Ch. 72.

14. Wisconsin. Leys de 1927 Ch. 130; Idaho, Leyes de 1929, Ch. 264.

15. Georgia, Order of Public Service Commission, Oct. 1, 1929; Rhode Isalnd, Ordinace of Prividencia, Ch. 93, 1920.

16. California, Leyes de 1926, Ch. 885; Michigan, Leyes, de 1927, No 383; Wisconsin. Leyes de 1931, Ch. 52

17/ Véase Kholer Legal Disabilities of Aliena in the U. S. American Bar Association Nournal :eb. 1930, p. 113 C. J., 1046

MR. BALILI ?AKES A PALIAMENTARY INQUIRY TO THE CHAIR

MR. BALILI. Mr. President.

THE PRESIDENT. The gentleman from Bohol.

MR. BALILI. Mr. President, before we begin the discussion I wish to be infommed thoroughly whether the voting which will take place next Friday evening eill be final.

THE PRESIDENT. The Chair understands that it will be final.

MR. BALILI. Supposing that there will be one hundred fifty delegates present on Friday evening?

THE PRESIDENT. Neverthèless, the decision will be final.

MR. ARUEGO Mr. President.

THE PRESIDENT. The gentleman from Pangasinan has the floor.

SPEECH OF MR. ARUEGO IN FAVOR OF THE BICAMERAL SYSTEM OF LEGISLATURE.

MR. ARUEGO. Mr. President, and gentleman of the Conventions: It was found out that 262 acts passed by the Philippine Commission only 403 of these acta were as specifically altering the other acts. In other words, the 403 of the 806 acs were nothing but repealing acts, acts which were intended to perfect previous legislation, so that this commentator said "the legislative body did not know its own mind or else confitions changed vert rapidly alomost from day to day."

Before I conclude, gentlemen of this Convention, I would admit that no bicameral system in the world is entirely perfect. The countries that have adhered to the bicameral system know very well the imperfections of the system, but if they have adhered to the system it was because notwithstanding its imperfection they prefer it to the unicameral system because they believe that unicameral system could not be any better. The lovement for unicameralism in Europ and United States has been going on for sometime. I know of no country of sugnificance

that today

that today is governed under unicameral legislature. I know of no country, except those in the experimental stage which are govened under unicameral legislature. Spain is under the unicameral legislature, but Spain is under the thr throes of civil war. Germany has abandoned the bicameral system because Hitler has abolished the Uppoer House, the Reichstag. The Upper House was abolished in spite of the provisions of the constitution because he believes that with the abolition of the Upper House and with the existence of the Lower House under his control it would be easier for him to perpetuate himself a dictator.

Gentlemen of the Convention, before I close, I should like to make the humble observation that my mind is still open to ~~ma~~ unicameral organization if those who advocates for a unicameral system can tell me any special reason for the adoption of the unicameral legislature in the Philippines, or of any reasons that has not been mentioned in the movement for unicameralism in other countries. I know that in the United tates that movement has failed notwithstadning the fact that the movement has taken a long time. The majority of all of the states of Europe are still governed under a bicameral legislature. The unicameral system has triumphed in the city government but there were very few cities that were operating under a bicameral council and under the unicameral system of city council there is the mayor and in this system the unicameral system of government exercise boty executive and legislative functions.

As I said, gentlemen of the Conventio, I am still with an open mind. I should wish to know what special reasons in the Phippines do we have that have not been brought out in the movement for unicameralism in other countries, reasons which would justify the abolition of the Senate in the Philippines and the establishment of a unicaeral legislative body.

MR. BOCAR. Mr. President, will the gentleman yield?

THE PRESIDENT. The Chair wishes to remind the members of the Convention who desire to interpelate him that the time of debate for this subject is very limited.

MR. ARUEGO. I am sorry that my time has expired.

MR. ROMERO. Mr. President, I yield fiften minutes to the gentlemen from Sorsogon.

SPEECH OF DELEGATE GRAFILO

MR. GRAFILO. Mr. President, the chosen and select delegates of the Filipino people, who have been assembled in the hall of this palace of the people, carrying with them the greatest responsibility of drafting and formulating a constitution which shall be the fundamental law of the lands, is now confronted with a big question. The question, Mr. President , is clearly defined in the proposition whether or not we should adopt a bicameral legislature or a unicameral legislature. The proposition is clear; it is simple. I would like to indulge myself, Mr. President, in sustaining for a unicameral legislature by presenting certain issues, the discussion and examination of which will be instrumental in arriving at an elghtehed solution. I would also request, Mr. Presidente, to invite those memberw of this Convention entertaining the opposite view to indulge with me on the following issues.

The first issue is: Shall we make a constitution with provisions and organizations that are simple as against the complex and the complicated? Supporting the unitary form, my answer is "yes," and the unicameral system is simpler than the bicameral system. The second issue is this: Shall we take into consideration the point of economy? Again my answer is "yes,". The unicameral system is less expensive than the bicameral legislature which entails a greater expense to the country. The third

issue is this: Is our tendency towards a more democratic system. I maintain, Mr. President, the affirmative answer, and the unicameral system is more democratic than the bicameral one. The fourth issue, is this: Is it not better that we form a system which fixesxr responsibility in the making of our laws. The same affirmative answer do I maintain. In a unicameral system, responsibilities are fixed for unwise and defective legislation. The fifth issue is this: Shall we institute a form of government responsive to the needs, I sh shall add, to the immediate needs of our people? Yes Mr. President, the unicameral system is responsive to the immediate needs of our people. Lastly, Mr. President, I would jut want to indulge on the last issue. What system of legislature I may now ask the members of this Convention, was the dream and desire of our forefathers who fought and died for our freedom? Gentlemen of the Convention, the answer to this question is clear and unmistakable. Read the Malolos Constitution and you will find that their desire and dream is no other than the unitary system.

I would now come, Mr. President, to the discussion of the first issue which I maintain that the unicameral system is simpler than the bicameral system of legislature. In doing this, gentlemen, I would like that you see with me, that we focus our minds, and our attentions not to the theories found in books but to the practical workings of legislative systems.In certain legislatures, we find the duplicity not only of work, of time and money, but also of energy. One of the chambers, for example, the Lower House may passe a certain law. Said measure is carried to the other house, the Upper House. There it is discussed in other forms, returned back or sent bact with amendments from where it originated, and here comes the complexity of the system. If our intention, Mr. President, is to have a constitution which is simple and clear,

the answer to that is to daopt a unicameral form of legislature. In t is connection, Mr. President, I would just like to inform the members of the Convention a short statement by famous man known all over the world, Benjamind Franklin. He stated, discussing on the system of legislature by by saying thus: "A legislative body divided into two branches is like a carriage drawn by one horse infront and one behind pulling on opposite direction."
Another statement, Mr. President, by Seizes runs thus: "There ought not to be two voices. If the Upper House agrees with the lower, is superfluous. If it disagrees it ought to be abolished." No justification, Mr. President, I see for the adoption of a bicameral form of government.

The next issue is towards the point of economy. Our lawmakers today are more in a position than I to figure, to find out the enormous sum at the expense of poor Juan De la Cruz in sustaining a two-chambered legislature. It soes not only come on the salaries of the senators for example. It carries with it the other expenses attached or connected in maintaining that office. If we multiply the enormous sum spent by one legislature in one day by thirty, we can figure out the enormose sum spent in a month. Multiplying that by twelve, we cah imagine the figure in a years, and multiplying that by many years should we adopt a bicameral form, there is a grandiloquence of a big figure in feeding a bicameral syste.

Our country, Mr. President, specially should we come to the period of transition, and more so shluold qe come to acroxx the path and come to a Philippine Republic, needs more economy more money because we need more for other expenses. I shall not mention, Mr. President, the other needs for money in other lines. It is suffice to say that there are needs of money which could be better inverted than by maintaing a bicameral system, as the

schools, hospitals and other public improevments.

The third one is, the unicameral system is more democratic than the bicameral. The doctrine of popular sovereignty and general will can better be expressed by a unicameral body. In this connection, Mr. President, I want to make a short and specific example, whrer an instance may oucur that a rubot minority, in a two-chambered legislature may not only frustate but may even defeat the will of an organized majority. Let me explain, Mr. President, this assertion of mine by a short example. Supposing that we adopt a bicameral form of government, one lower house and the other an upper hous in the composition that we have now. As we have it now, Mr. President, the members of the Lower House are elected after every three years while one-half of the members of the Upper House are elcted after every three years. Supposing, Mr. President, that a certain fundamental issue is presented before the public and the public has decided ro support a certain party presenting that issue. Supposing that in so doing the people have decided by giving one hundred percent. to one party in the Lower House as a voce of the majority, the mandate of the peopoeb, One-half of the Upper House will be chosen with that majority except minus one. Instead of twelve, only eleven, one goes in the opposition. Momentarily, under this situation, it is controlled by the Lower House and eleven up. The result will be this: That there will be thirteen of the minority senators in the Upper House, with only eleven senators who are with the majority in the Lower House. Now, the majority of the Lower House, following the mandate of the people who elected them, say, for example, pass a law in complaince with the proposition.

That law is the clear expression -- one hundred per cent. expression of the whole Filipino people. That law will not become a law in the system of bicameral legislature unless it has the sanction of the Upper House. Once taken to the Upper House, unfortunately, there are only eleven there newly chosen because one happens to be on the other side. It is defeated eleven by thirteen in the Upper House, and the need for the law which is the requirement of the Filipino people, has not only been frustrated but, as I have said, defeated. A minority defeating the will of the majority.

MR. FLORES. Mr. President, will the gentleman yield?

THE PRESIDENT. The gentleman may yield, if he so desires.

MR. GRAFILO. I regret I cannot answer until I am finished with my speech.

(continuing). Mr. President, if our tendency is to formulate and draft a constitution with the end in view of having a democratic institution before our lands and waters, the only answer is to adopt a unicameral legislature.

The fourth issue, Mr. President, is to fix responsibilities. Now here we come. We have adopted a form of government democratic in form, and it is elementary, Mr. President, that a democracy must be run by political parties. The need for political parties to run a government democratic in form -- one of its needs is to fix responsibilities. In practies, Mr. President, when we have the bicameral system to fix the responsibility of one measure on one party or another, becomes sometimes dark and obscure. Some of the members of the Convention who are also members of the Philippine Legislature can see better than I in the difficulty of fixing responsiblity. This is augmente, Mr. President, when from one house a

certain proposition is passed, carried to the other, and when brought to the other house, amendments are introduced and after these amendments, it is returned back ro the house from which ot originated. If we cannot fix responsibility in the making of laws, the system of democratic institutions run by political parties may be also frustrated. In order, Mr. President, that our people shall be responsive to the needs or to the workings of the agencies of those people, in order that those agencies are also responsive to the will of the people, the fixing of responsibility needs be made and that can only be done by forming a unicameral Legislature. Mr. President, I shall not discuss longer on the last proposition I have mention when I say that the desire, the dreams of our forefathers, who, not only shed blood on the battle fields but also died for our freedom, is no other than a unicameral form of government. Our drean to have a commonwealth which is now dawning, our desire for a Philippine Republic after the Commonwealth or after the transition period, is not a desire only of thise generation or of the present, but history is behind me when I say, Mr. President, that that freedom that we cherish is the same freedom for which our forefathers have fought and died, and that our labors and qork today is no other than the continuation of the labors they have begun. And when they began their work and laid the foundation, with a desire no other than the unicameral form which is expressed in the Malolos Constitution, Mr. President, I cannot see, I cannot even imagine how we could be consistent with them should we adopt a system different from their expressed desire.

There has been indulged in the discussion of the first speaker, the distinguished gentleman from Pangasinan (Mr. Aruego) supporting the bicameral system, the theory of check. When this question, Mr. President, was

first brought up, I had also in mind the theory of check in law-making and to prevent hasty and defective legislation. But Mr. President, that objection against the unicameral system on the teory of a check has a remedy, should we adopt the unitary form. Besides the legislative branch of government that we shall institute, there is no question, that we also shall insert provisions in our constitution about the executive branch. The executive branch does not only execute the laws, but everybody knows that the chief executive has the power behind him to veto hasty, defective and unnecessary legislation. If the fear for hasty and defecitive legislation is being entertained by those supporting the opposite view, with the veto power of the chief executive, that fear can be erased. But there is another. Is it not possible, Mr. President, that those considered experienced, well-trained men in legislation, who are timbers for the upper chamber can also be at the same time chosen and elected in unicameral system? Should this select men supposed to be timbers for the Upper chamber in order that they can form the balance or a check to hasty legislation in a Lower Chamber be made as members, elected as members of the Lower Chamber, while in that chamber, Mr. President, in a unitary system, they can discharge that duty and function of making their proper check even in a single or unitary Chamber.

Lastly, Mr. President, that fear is sometimes overbalanced not by the damger of hasty legislation, but on the contrary there are instances in a bicameral system where defective legislation are being made and carried out. Why? Because there is that human defect of one body depending on the other. A lower house, for example, may pass a law without studying and scrutinizind the provisions and effect of this law, believing that there is

another body which will make the proper study. If that law is passed, it is carried to the other chamber, and the latter chamber believing that that law has already been thoroughly discussed and studied in the other, they just pass that law. Why? Because there is that human defect which we cannot deny of relying on what has already been done. But should we adopt, Mr. President, a unitary form of legislature? That fear of defective or hasty legislation can be eliminated. The members of the unitary system, will have the consciousness that there is no other body that will deliberate and discuss on the propositions they are called upon to solve other than that single body; and knowing and conscious that only one body is considering the measure, naturally, they will have to deliberate on the proposition the best that body could do.

THE PRESIDENT. The time of the gentleman from Sorsogon has expired.

MR. GRAFILO. I would like to ask for just twominutes to conclude.

MR. ROMERO. I yield two more minutes to the gentleman from Sorsogon.

MR. GRAFILO. Mr. President, I am announcing that I give my vote in favor of the unicameral form of legislature because, first, it is simpler than the bicameral system; secondly, because the unicameral system is less expensive than the bicameral form which entails greater expense to the country; third, because the unicameral system is more democratic than the bicameral on; fourth, because the unicameral system fixes responsibility for unwise and defective legislation; fifth, because the unicameral system is responsive to the immediate needs of the people; and sixth, because the unicameral system has been the dream and the desire of our forefathers who fought

and died for our freedom. (Applause.)

MR. ARUEGO. I yield ten minutes to the gentleman from Bohol.

SPEECH BY DELEGATE INTING OF BOHOL.

MR. INTING. Mr. President and Gentlemen of the Convention: The subject under discussion is one of the fundamental problems confronting us in the delicate task of framing the constitution of our country. We are to decide with fitting seriousness what knind of a legislative body we shall have, whether it shall be bicameral or unicameral. We are conscious that the Legislature is the bulwark of the political rights of the people. It is the body composed of the representatives of the people responsive to their sentiment and needs. Our action and decision on this important problem directly affects our people. We do not want to be recreant to our duties, and I, for one, would like to register my vote that our legislature should be Bicameral.

A bicameral legislature as a governmental system is an old institution. It was practiced by the Greeks and the Romans even before those two great nations of the ancient world reached the zenith of their powers and progress. The system was develpped in England in the 13th century and then followed by most of the progressive countries of the cold.

The creation of the second chamber or the Senate was not an artificial act. It was incidental in the process of transition rom monarchy or oligarchy to democracy. Yes, it was part and parcel of the lone struggle to wrest the unlimited powers from the hands of kings and emperors and thus make sovereignty reside in the people. It was as it is now, by necessity intended,

to safeguard the political and civil rights of the people ; to prevent ill-considered and hasty legislation; to subject any bill from one chamber to a revision and amendments by the other chamber; to check the impetousity and radicalism of the lower house and to check the growing ambition of an executive to make himself a dictator.

The senate is what the unicameralists want to abolish. They believe that the existence of the upper chamber is superflous and unnecessary, under the Jones Law we have the Philippine Senate. What are the disappointments and grievances of the Filipino people against this body? Traditionally, we have respected the Philippine Senate because it has always been composed of the intellectual men of the country whose deliberations on national affairs have alwasy been characterized with calmness and sense of responsibility. As a legislative body, it has always stood for the rights and welfare of the people. The Philippine Senate has played a patriotic role in our peaceful struggle for freedom and it is astounding to see it abolished at the advent of the very independence for which it has nobly strived.

The world today sees more countries adopting the bicameral legislature. In fact, most of the world powers have a bicameral legislature. We have the United States, England, France, Italy and Japan. These examplers are sufficient to make us understand that it is justifiable to continue in our country the present system of a bicameral legislature. What are some of the countries adopting the unicameral system. We have Bulgaria, Finland, Turkey and Spain. The troubles, riots and revolutions now taking place in Spain are not encourage-

ing for us to fallow his example to adopt a unicameral legislature. We do not want to lose the doctrine of checks and balances which has always worked well in tempering the sudden outbursts of passions in democratic legislative chambers which, if allowed unbriddled, would cause troubles, revolts and civil wars.

We want for our young country, peace and security. If we have only one chamber for our legislature, that body will always be aggressive and radical. It will lack the calmness, seriousness and natural look of the Philippine Senate which is usually composed of the older men. The outcome, God, forbid it, will be troubles and upsisings line those happening in countries where the doctrine of checks and balances has no longer a place.

The existence of the Senate or any upper chamber in a legislatute has alwasy been recognized. In countries where the unicameral system is adopted, there is always a body whose continuous existence serves to play the role of an upper chamber. We have in Spain a body of twenty-one deputies that hold office while the national assembly is not in session. In Turkey, they have the so-called council of Ministers. Even the framers of the Malolos Constitution saw the gap in the absence of an upper chamner in the legislature and so they created the so-called Permanent Commission of Seven Members.

In a democracy we need a permanent body that represents the people. If our legislature is composed of one chamber only, then all of the members thereof must be changed at the expiration of the term of office. But with an upper chamber where one-half of its members only are changed every election, the said body is continuous in its existence with the other half of the members, and the people always have a felling of security

in knowing that at all times they have their representatives in the governmtn.

Gentlemen of the Convention, to establish here a unicameral legislature is to change our present legislative system. It is a daring experiment. the Filipinos, as a people, are not stagnant and we welcome experiments which we believe to result for the good of the country. But to experiment on a system which as we know will bring to our country havoc and disaster, is to commit suicide and an act of irresponsibility. We must not, therefore, carry on the hazardous ventures and I hope that in our constitution we adopt a bicameral legislature.

Gentlemen of the Convention: I would like to refute the argument of my colleague to the effect that the doctrine of checks and balances can be substituted by the exercise of the veto power by the chief exective if the unicameral system were adopted. At present, under the bicameral sustem many laws passed by the two houses after a careful study and deliberation are vetoed by the Chief Executive. If we adopt the unicameral system, the laws passed by the lone chamber will be hasty and ill-considered and the veto power of the Chief Executive will be exercised double on three times as it used to be. Many laws will therefore be vetoed and this act of the Chief Executive will cause resentment to the members of the Legislature and as a consequence there will be discord and disagreement between the executive and the legislative branches which will be to the prejudice of the people instead of maintaining harmony and cooperation essential for a successful government.

MR. ROMERO. Mr. President, I yield tem minutes to the gentleman from Pangasinan, Mr. Guzman.

MR. GUZMAN (J.). THE PRESIDENT. The gentleman from Pangasinan has the floor.

SPEECH OF MR. DE GUZMAN IN FAVOR OF UNICAMERAL SYSTEM OF LEGISLATURE

MR. DE GUZMAN (J.). Mr. President and gentlemen of the Convention: Addressing a group of university students sometime ago, our energetic Presidente Hon. Claro M. Recto disclosed the starling fact that despite the open advocacy he had previously launched in favor of unicameralism in the Philippines he has to adhere to the idea of retaining the present double-chambered system of the Philippine Legislature. As a basis of the rather unfortunate "change of front" of the distinguished head of this Constituent Assembly the wonderful allegation is laid down, that to adopt a system of legislature substantially antagonistic to what we have been accustomed by experience at this period of our history when we are about to step into the threshold of a new era, may entail radical consequences. It can be clearly seen that our President is sadly overcome with the premonition that the radical consequences that may arise from the adoption of a unicameral legislature at this momentuous stage in our national existence would result to the detriment and disadvantage rather than the welfare and benefit of our people.

Without the least attempt to belittle or inpugn the dignity with which the name of the academician-captain of the ship of our Constitutional Convention is stamped upon the hearts of our people, I desire to register hereby my contention that if there be a time in our life as a people which not only appropriately but imperatively demands the institution of unicameralism in our country, that time is the present. Much as Presidente Recto

holds the view that because of the attending circumstandes of the present time it is not advisable for us to transform the present legislative system into a unicameral body, I maintain that the very attending circumstances at the present time only furnish the real justification of any effort to introduce unicameralism in the Philippines.

At the outset I wish to tell you that I shall be very brief in my speech. I shall not endeavor to discuss this question in its full extent but only on two fundamental aspects.

In the first place, the period of transition into which we are about to enter by virtues of the Philippine Independence Act, otherwise known as the Tydings-McDuffie Act, will be a period of economic readjustment. The COMMONWEALTH will be a new order in our national history, and one ot the imperative demands of that "new order" is to exact from our national conscience a deep sense of practical economy. The eventual termination of our free-trade relationship with the United States, which is tantamount to the closing of the American market against Philippine exports, and the inevitable advent of the multifarious responsibilities of independent existence will necessitate the observance of an unanswering attitude towards economy, especially in the out lays and expenditure of our government. Unless our governmentwould deviate from its trodden path of extravagant and wasreful disposal of the people's monwy, Juan de la Cruz would be bound to be financially crippled from head to foot. I invite you all to have a look at our present legislature, it is composed ot two chambers, each with its array of bunch of "solons or soloists," eacn with its teeming batallion of "empleados" - secretaries, clerks, stenographers, sergeant-at- arms, ...

messengers and miscellaneous other, each with its accessory administrative departments, and lastly, each with its vivious prppensity to utilize the money of the people for seemingly inexpensive miscellaneous indidentals." Shall we allow such a situation, without our regard for the people's interest? As for me, I shudder and temble at the very idea of perpetuating the anomally of our bicameral legislature. It may be argued that economy may be effcted in the two-chambered system by diminishing the membership of each house at the expense of the principle of proportional representation, by reducing the salaries of the members thereof, and by dismissing unnecessary employees. Such an idea is not bad at all, but, unfortunately, as between two chambers which economize and a single chamber which economizes, the latter is certainly and indubitable much more economical. May I as therefore, if economy be a radical consequence of the adoptaion of unicameralism, shall be refuse such consequence on the ground th t it is radical? My logical answer is that we should not only accept it but we should demand even more of it because it is a radical consequence in favor of our people.

In the second place, the task of readjustment during the transition period demands that we should simplify our governmnt mental processes. The means of effectuating the policies which our government may resolve to adopt should be of such a character that they would readily serve to facilitate rather than procrastinate the successful consumation of such policies. I wish to emphatically state that in periods of stress and emergency, the need of the hour is "swiftness in decision and vigor in action, that it is needless for me to say the numerous instances that testify to the truth of this statement. Economic policies especially, by the way the policies of our government are going to be mainly economic, are often difficult to achieve because they necessarily effect conflicting interests. A Single

chamberis a field of opportunity in which conflicting interests can stage the struggle of their respective claims, and certainly the double that chamber is to multiply the opportunity of opposing groups to delay the achievement of needed and urgent measures. A two-chambered legislature is not a system which conducts itself to simplcity; it is characterized by delay, confusion, and much working at cross-pusposes. Mr. Presidente, rught here in this Convention I can cite to you very slearly the truth of my statement. At present, as everybody knows, there are two practically separate bodies, one the Sponsorship Committee, and the other the Convention itself. I think that there is no need explaining to you the facts and the attending circumstances why there is a move at present to creat a special committee or a sub-committee, as you like to call it, on the ground that the presence of so many bodies to work on the constitution is merely lengthening the work of this Convention. There is even a move to dissolve the Sponsorship Committee because its deliberations and proceedings are but duplicating the workings of this Convention. Gentlemen of the Convention, let us profit by our own experiences in this convention, that the presentce of two distinct bodies will naturally create opposing groups to delay the achievement of the most systematic way of passing important and urgent measures. Under the biameral system we lose time, money, and energy enough to place the country into its miserable condition. A unicameral legislature on the hand, is what lends itself the salutary consequences; under it there is concentration of work, and consequently of responsibility. The members will not feel conscious of the existence of a sort of an "alter ago" in another chamber, and consequently, they will devote their time and energy to the perfection of their proposed measures.

Of course, there is the traditional nineteenth century edition argument of "check" for the bicameral legislature, boosted by such men as Mill, Maine, Lecky, and Bryce. The up-

to-date opinion, however, runs to the effect that two chambers in the bicameral legislature do not by practice really check each other; instead they conspire together. The true checks against ill-considred, despotic, hasty, or unconstitutional laws are the executive veto and the power of the judiciary to annul laws as unconstitutional.

This, we see that now is the very opportune time for us to introduce, unicameralism in the Philippines. The very attending circumstances of the period are but the forces behind the justification of unicameralisn in this country. If this is a time when we are avout to enter the portals of a new life, if this is a time when we are about to make a transitional step from a dependent to an independent existence, then and only then are we most justified to adopt the unicameral system of legislature.

In conclusion, Mr. President, let us adopt the unicameral system in place of the present very expensive and highly complex bicameral form of legislature, NOW or NEVER. I THANK YOU.

MR. ABORDO. Mr. President, I yield ten minutes to the Delegate from Abra.

SPEECH OF MR. PAREDES IN FAVOR OF THE BI-CAMERAL SYSTEM.

MR. PAREDES. Mr. President and Gentlemen of the Convention: The barbaric tribes of the North invaded the South and led by the Cydas having with them the laws of ---------- and followed afterwards by ---------- which resulted in the codification ---------- or lex romani. These Barbaric tribes were inspired by the Germania written by Tacitus in which it was promulgated as a principle the bicameral system of legislation. There was represented the conservative people and also the the rest of the inhabitants which represented the proletariats. These were the invaders of England so that the Teutonic principle was implanted in England were regulated b by the bicameral system, bicameral system in the sense that ---- or the councils of older men or the body of chieftains associated with the executive, but we had also the fault moot and the mon moot of England which represented the Assembly and the people. These wore the principles that were in vogue in England when some of the population went to settle in the United States and formed their colonies and necessarily their colonies were patterned after this bicameral system of government and Virginia was on of the first colonies. Afterwards, they asked for a separation of a deliberative body in the making of their laws and the government of England has granted to the several colonies little by little the power to organize themselves into several bodies. The qustion of taxation without representation has brought the clash between the now American people and the then English government. And so they found the necessity after the declaration of independence to make their own constitution and they made and prepared the Articles of Confederation which was unicameral in character. But after ten years they found our a great movement; they found out that the unicameral

system of government was a failure and they did not amend the Articles of Confederation but they resolved to frame a Constitution of the United States. So that history convince us that the unicameral system is a failure and that the unicameral sys- of today is only enforced in twenty-two nations, nations who are small, except Germany and Spain, like Czecho-Slovakia, or these nations that are not mentioned by students in geography. Not to mention the Philippine Islands, which in the Constitution of Malodos they had followed the bi-cameral system but in the sense that they were inspired by the principles in England, we say that we are the first to follow their constitution but in the sense also that we have our Council of States now represented by the Senate to be a check to the legislative body. We must be aware that at that time the Philippine Islands was not like the Philippine Islands of today. We must be aware that there has beenc changes, according to circumstances and according to the changes of time, and that the Constitution of Malolos, is now applicable to the Philippine Islands. Otherwise, there qould be no need of the Convention. We shoud simply adopt the Constitution of Malolos as a show of respect to our forefathers. If we come to sentimentalism and just follow what they had done, we should simply say: let us copy the Constitution of Malolos because that is the desire of our forefathers after the revolution.

But, gentlemen, now we are confronted with different problems and one of the problems, -- and I believe this is the weakest part of our side, -- is the question of economy. But are we going to sacrifice the principle for the sake of economy? Are we going to sacrifice the principle that has been sustained in Rome when they were represented by --------- ----------? Are we going to destroy the principle that was followed by Napoleon when approving the Napoleonic Code, four body organizations legislative in Caharacter? Are we going to destroy the sentiments

destroy the sentiments of Sweden when they formed these foumr organizations as legislative body? We are not asking for the Philippine a great number as that but we are asking only two chambers, and now they are asking for one. Gentlemen of the Convention, the unicameral system is very dangerous, just the same one thah to bribe two. I am afraind that the lobbyst would go into the popular chanbere and then change immediately the line of legislation from one to another and this is the reason why we should have represented the two classess of people in Rome and Greece. You know you can not deny that in every country we have the citizens and the plebians. The plebians must have repsesentatives and of course the popular chamber can go with them because they can interpret their sentiments, but if we will not select a representation in the Legislature of those who are in commodity sitting in their rocking-chairs, what is the incentive for the Legislature to go to the field of activity and fight when after all it is but to represent a one kind of people and not to represent a higher class of people?

MR. PAREDES (Continuing). .... to represent one kind of people and not to represent a higher class of people. What would be the check of an abuse that may be committed by a unicamsral system. Suppose there is a need of deliberation. Do you agree that a deliberation made by one body is more perfect than a deliberation made by two? It it not reasonbelt to believe that a deliberation made by one body, supported by a higher, body, is more strong than a deliberation made by a bicameral system composed of representative of the plebian and excluding the representative of the higher class. How can they understand the problems of state? How can they understand the problems of every phase of our activity if we are going to select one class of representation and one class of people to be represented? Could others say they are trying to creat represthtation not only

say they are trying to create representation not only by the people but also of professionals? Tha shows the necessity of having a complete representation, not only of the mass, but of the class. And this can only be solved by introducing the bicameral system of government.

The United States of America has implanted into the Philippine Islands the principle of bicameral system. And we believed that at that glorious day of the thirteenth of August, when an armed vessel has been surveying the waters of the deep China Sea and we saw the Flog of the Stars and strifes waving its ample folds, the blesseings of liberty, we found out that democracy in the Philippine Islands would stop. But now a days, instead of progressing, I observe we are in the way of retrogration. Instead of adopting a bicameral system which is adopted by the forty-fourt nations against twenty-twox nations, this system of bicameral is noq being thrown down in the Philippines. Why are we going to adopt a system that we don not know. Have we forgotten that principle inSpanish: "Es mejor una cosa connocida que otra por conocer?" Are we going to begin learning and trying again for thirty-two or thirty three years another system, to see if we fail or we do not fail? Are we not observing the unicameral system if a failure and the biggest nations in the world are being regulated by bicameral system? Thus, this asme Convention would undo what it has done and would undo what it has never done. I invite your attention, members of the Convention, to the several precepts that we have submitted to the Committee on Control. We have seen that all these committees have prted from the supposition that our government is working on a bicameral system. If we examine the Committee on Impeachment, they parted from the bicameral system theory because they say that the legislative body is the one that will bring the action against the impeached official, and that the the Senate will be the judge. If we come to the study

of principles of guaranty, we have also observed that they counted on the existence of the Senate and the House of Representatives. You could to the study of bills. Who has the rig right to initiate the bills. Then we say that the Philippine Legislature, or the higher and the lower hosse, and we have always parted from the supposition that there are two hou houses, the lower and the higher house. And what would be the result if we are going to implant here the system of unicameral. What about those whose appointments have been carried "with the advice and consent of the Senate?

Are they going to stop a tomatically because the Senate that has consent to their appointmenr is already obsolete? Are we going to change the enactment chause of all our legislation so as to take off their validity because the enacting clause of our legislation is "by the authority of the Senate and the House of Representatives in legislature convened?" Are we going to assume the power that Congress has not granted us, that is to say, to amend the enacting clause w ich is given to Congress when we are only the Philippine Convention? I doubt much, members of the Convention, if such power is granted to the Philippine Convention. We can even reach the power of amending or altering the Act of Congress in this sense, when there is a principle in law: "Quot est delegatus non potest delegare." What has been delegated cannot be delegated to another. The Congress has been delegated with certain powers to enact laws, but they cannot delegate those poswers to amend becausw we are only a colony, and we cannot repeal an Act of Congress. Just imagine what is going to be the result if we are going to adopt now the unicameral system. There will be a great revolution in the government, because there would be a paralyzation of the movement unless we should assume the implied power, although I do not agree with implied power to repeal an Act of Congress, because if Congress has intended to give us impaied power, there

will be a special power in express legislation and not by implication. And the power to repeal an Act of Congress could not be granted simply by implication but by an express power. Is there an express power whereby we could eliminate the authority in the enacting clause granted by the Act of Congress?

It is also an experience in the Philippine Islands that before the implantation of the Philippine Senate, we were regulated by a Commisssion and the House of Representatives. And what did the Secretary of War Baker write to Governor Harrison? He found out that in this unicameral system the Speaker was considered as a second man in the Philippines, and that he has attributed to himself certain executive power, thus giving a place to an encroachment unwarranted by the principles of Montesquea and the principles of Blackstone taught in England.

It was said here by one of the previous speakers that Franklin has uttered that the bicameral system is like a wagon pulled by one horse in front and another horse behind. I do not admit the parity, or what we say "nego partitatu," because there will be stagnation if there is a negative force. I cannot admit that. On the contrary, we have progress, secondly, when did Bejamin Franklin sya that. He utterd that when they were discussing the Articles of Confederation, and who won? Franklin lost, and that is why they have admitted the bicameral system. What is the use of quoting and making some allusions to the argument of a person who, in the argument, had lost?

They also argue the cetralization of responsibility. Members of the Convention, the centralization of responsibility does not mean that we are going to point one simple person or two persons. There is a centralization of responsibility when we can point on organization, or even a department. If we can point the responsibility of the Legislative depart-

ment as a whole, that is the responsibility that a government needs. You would agree with me that the forty-four nations in which the bicameral system is enforced, that the legislative body has no responsibility or that there is no centralization of responsiblity. Are they going to look at it with favor in the United States when the United States has been our teacher from the time they have implanted this Government into the Philippine Islands up to this time? I believe that that argument should be stricken out from the record, otherwise the Congress of the United States may read in the future what we have said here, because it is inherent or indirect manifestation that the Congress of the United States has no centralized responsibility. In other words, the Congress of the United States is an irresponsible organization. Mr. President and gentlemen of the Contention, I would not stand long before you to covet your attention. I wish I could have also prepared my speech in writing and bring some statistics and some quotations to you, but I know that you are all with me that the bicameral system is invoked in this organization, that the bicameral system has been the guide of our committees, and you are not going to undo what we have done, if you do not want to destroy everything that we have done during the last days that we have been working.

MR. ROMERO. Mr. President, I yield tem minutes to the gentleman from Bohol, Mr. Cloribel.

EL PRESIDENTE. Tiene la palabra el Delegado por Bohol.
(El Presidente cede la presidencia al Delegado Sr. Romero.)

SPEECH BY DELEGATE CLORIBEL
OF BOHOL

MR. CLORIBEL. Mr. President and Gentlemen of the Convention: When I arrived in Manila to attend the Convention, I was asked by a reporter of a local weekly as to whether I was in favor of unicameral or bicameral system of legislature. Without hesitation and mental reservation, I told the reporter that I would be for a bicameral system of legislature, provided that the present system is modified radically, otherwise I would advocate the unicameral legislature. I was led to believe ever since that the great object of the division of the legislature into two chambers was to destroy the evil effects of sudden and strong excitement of precipitate measures springing from passions, caprice, prejudice, personal influence and interest and party intrigues and discipline, which has been found by sad experience to exercise a potent and dangerous sway in all unicameral assemblies. In other words, the theory of the bicameral system of legislature is that one chamber shall be composed of men whose party discipline and affiliation, personal prerogatives, politiaal ambitions, and otherwise, are diametrically opposed to those of the other chamber. This idea may be good in theory but has not worked out in practice, It may work out successfully in other countries but not in our contry today.

During the early days of our participation in the Philippine Government in 1907, we had the Philippine Assembly. The upper house was designated as the Philippine Commission. These two chambers were indeed the nearest approach to a successful bicameral system. It was because,

the upper chamber was practically composed of men whose positions were filled by appointment from a power which had no connection whatsoever with the lower chamber. On the other hand, the Philippine Assembly or the Lower House was composed of men elected by popular vote from different representative districts thruout the Islands. The upper chamber derived its powers from the United, States, whereas the Philippine Assembly derived its power from the people. The work of the Philippine Commission was shaped and guided by the policies of the administration at Washinton, while the work of the Philippine Assembly was local in character, largely in accordance with the instructions of the people. There was then a real system of checks and balances in the Legislature.

Upon the establishment of our government under the Jones Law, where the Uppoer House was composed of Senators and the Lower House of Representatives, we evolved into a party system of law making, that is, the majority rules. Any man who demonstrated himself to be a real party man must be a food follower. The leader to retain his power and leaderhsip must be a disciplinarian of the first order. What has been the result of this party rule? It resulted in uniting by ties of common interests, common pregogatives, mutual help and reciprocal cooperation the Upper House and the Lower House in such a solid body that although separate they function as if only one and no longer checks each other. Now, who checks the work of the legislature in our system? It is no other than the Governor General through his veto power.

Mr. President, the supporters of the bicameral system based their contention on the theory of checks and balances

allleging that the idea would prevent undersirable legislation by insuring a double consideration of all laws prior to their approval. In other words, the upper chamber would serve as a check to the lower chamber or vice versa upon hasty, rash, and ill-considered legislation. This is a very good argument in theory then, but not so now. In these days, especially in our country, conditions have so changed in the administration of the affairs of the government that the operation of bicameral system of legislature has been undermined and is no longer in keeping with the basic principles upon which they were founded. The most important factor that rendered inoperative this basic principle of checks and balances is the introduction and development of well organized and efficient political parties. With one party in control of the two houses which is the general condition in our political system, the checks-and-balances theory is next to impossible. Now, examining the practice of our legislature here, and observing closely the measures properly denominated as party measures and especially those sponsored by the majority party leaders reveal that they are not checked regardless as to whether one House approves it or not. What the party leader does is to crack his whip and the followers like frightened sheep fall in the line and do as commenaed. The proposed measure is baptizing in the caucus behind closed doors and in secret sessions. The measure that is blessed favorable in the caucus is already sure of passage. We have recently the case of the budget, of the sweepstakes bill. They are party measures and we had not seen one chamber checking the work of the other. Any controversy that arises is settled and arranged by the peace agency we call coference committee.

Now, Mr. President, if it happens that one of the two legislative bodies tries to check the work of the other by rejecting a measure, it is at once branded as an attitude of non-cooperation, and because a cause for misunderstanding Under the present system, the functions of the government are divided into three branches, the executive, the judicial and the legislative. The checks, therefore, exist among these three branches, the executive and legislative checking each other, and the judiciary checking both by its decisions. What we need most is a unica meral system and a strong executive power to check the work of the legislature through the veto power. The veto power of the chief executive is a potent bwake on legislative carelessness, and, should an oppresive piece of legislation scape the executive knife we still have the judiciary to nullify it. There are those who claim that unicameralism would result in tyranny and legislative despotism. But such a thing would not happen here because ourpeople are conscious of their rights and we have an active, alert, and powerful public opinion ever healous and vigilant over the rights of the people. The checks and balances are executed also by the party of the opposition which pledges itself to the people to check and counterbalancus the policies of the majority when the latter forgets its duties to the country. A party of the opposition will find favor in the eyes of the electorate. Our second chamber, therefore, Mr. President is a superfluity, the theory of checks and balances is but a fiction, an illusion, and sheer mockery.

Unicameral system of legislature is simple. It is nearest the heart of the people by affording directly to deal with tiehr problems. In that system there is no

passing the buck. Whereas, in case of a bicameral system, a group of electors for example, petition their Senators to sponsor a certain piece of legislation, the Senator have all the chances to say, "Let the Representatives do it" It is their work and not ours," or vice versa. If an unwise piece of legialation is passed, the electors cannot effectively lay the blame on their representatives for the latter have a good reason of passing the buck to the Senators.

A one-chambered legislative body is efficient. It is less susceptible to the power of lobyists. It passes measures without the need and intervention of the conference committee or secret caucuses. Problems are directly discussed on the floor, allowing ample privilege and opportunity to each member to air his opinions and make his contribution. When a measure is approved, there is no need of party discipline to pass it. The check is done by the executive branch of the government. There is no such thing as a duplicity of work. The time consumed by the legislative body to pass a measure is deduced to one hal without impairing its efficiency.

Above all, unicameralism means sure economy. We are now on the threshold ofa new government. Upon the advent of our inddpendence, our most vexing prablem is finance. We need money to reorganize oursleves, we need money for the new department that may be created. We will raise and maintain armies and fortify our country. We need meny-meny things for the war department, machine guns cannons and battlehsips which costs millions and implements for self-defense. Adcodding to military experts, we need at lests 60,000 troops to gar- .....

rison this Archipelago of 7,000 Islands meaning 1,000 miles done and 600 miles wide. Where shall we get the

money? Can we afford to increase our taxation ten fold? Can we afford to imposed further upon the small land holdings small farmers, their retail merchants or the laborers by increasing their problems ten times? God forbid.

In order to raise the necessary money to maintain our future government, it is necessary for us to reduce expenses Charity begins at home. Let the legislature reduce its expenses first and thus lead the wan for the other branches of the government to follow. The mos effective means of reducing expenses on the legislative branch of our government, it to abolish one of the chambers thereby avoiding duplication of functions. The House of Representatives, with all its accessories, including clerical work, stationeries, etc. is spending Hine Hundred Fifty Thousnad pesos (₱950,000.00) every year. The Senate is spending Four Hundred seventy thousand pesos (₱470,000.00). If the lower chamber is abolished, how many thousand of pesos can we save for our government? How many thousand of pesos can we spend for our future army and navy. We need not increase the taxation, ten fold. If the Senate is abolished, we save enough money to employ 2,600 laboerers at the rate of ₱180.00 pesos per year an income which is quite sufficiente for his daily bread and necessities. The unemployment problem would be almost solved.

Mr. President, and Gentlemen of the Convention: there is no doubt about the advantages of the bicameral system of legislature provided our country contains the diverse elements of population like those of England or of the early days of the American colonies. In England the House of Lords is a permanent body, composed of large land holders and

big interests. That chamber is there, to serve as a check upon any rash action of the House of Commons. In short, the House of Lords is a protector of the wealthy class. In the early days of the American Colonies, or at the time when the United States constitution was drafted, the idea of an upper house originated from the fear of the wealthy class which thought that the lower house, composed of Representatives of the common people, might constitute a danger upon their property. Consequehtly, delegates who represented the aristocratic class of the colonial provinces advocated the organization of the upper house. Have we aristocrats classes or nobles in the Philippine Islands?

In the Philippine Islands, however, there are no distinct classes which correspond to those during the colonial days in America. We have no aristocracy; we have no royalty; we have no nobility. To be true, we have wealthy people but they are not any where like the landed aristocracy of England or of the colonial days. I want to say Mr. President that the reason for the existence of an upper house is out of date because in the Philippines we are very much alike in wealth and in privileges. Therefore, we have no need of a chamber like the Senate. There are other reasons why in the Philippines we should establish a one-chambered legislature. The country is small and its interests are more or less uniform throughout. If we organize an upper house the only distinction in the member-s ip thereof and that of the lower house will be in point of age. Other justifications are identical. Our senate in the Philippines has never represented any class. Finally Mr. President, our psychology does not warrant a two-chambere legislative body. The bicameral system is suited to a people who are used to independent action. Filipino however, are to much inclined to follow a leader. This

attitude or tendency defeats the purpose of the system of checks and balances of a bicameral Legislature. Our experience during the last quarter of a century has proved that our bicameral system might as well have been a unicameral. Now that we are drafting the fundamental law of our country may we not apply the system of other people. A unicameral system of legislature is, I believe, best fitted to our idiosyncracies.

Let us now begin to consider the practical aspect of our problems. Let us face the issue squarely without vaciliation of mental reservation, feeling the sentiments and hards ips of the people who want us here to undertake the gigantic task of constitution making. By approving the unicameral system, we will inevitable sacrifice many important men in our government, but if we will be true to our ideals of democracy, let there be a sacrifice provided that in doing so, it would lead to the end that the people behind us, the common people whose conditions most need our attention are spared.

ADJOURMENT OF THE SESSION

MR. GRAFILO. Mr. President, I mo e that the session be adjourned.

THE PRESIDING OFFICER (Mr. Romero). Is there any objection? (Silence). The Chair hearrs none. The session is adjourned until tomorrow afternnnn at 5:00 p. m.

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